

THE  
COMPILED LAWS

OF THE  
TERRITORY OF DAKOTA,

A. D. 1887.

COMPRISING THE CODES AND GENERAL STATUTES IN FORCE AT THE CON-  
CLUSION OF THE SEVENTEENTH SESSION OF THE  
LEGISLATIVE ASSEMBLY.

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COMPILED AND PUBLISHED BY,  
E.W. CALDWELL AND CHARLES H. PRICE  
COMPILERS OF THE LAWS.

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BY AUTHORITY OF THE LEGISLATIVE ASSEMBLY

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BISMARCK, DAKOTA :  
PRINTED FOR THE TERRITORY.

1887.

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HENRY GIBSON,  
PRINTER, ELECTROTYPED  
AND BINDER,  
OMAHA, NEBRASKA.

## ACT AUTHORIZING THE COMPILATION.

[Chapter 83, Session Laws of 1887.]

AN ACT to Provide for the Compilation, Publication and Distribution of the Laws of the Territory of Dakota.

WHEREAS, There has been no legalized compilation of the laws of this territory; and,

WHEREAS, The sessions laws of many sessions of the legislature are practically out of print, so that to ascertain the law on many subjects is attended with great labor and difficulty; therefore,

*Be it Enacted by the Legislative Assembly of the Territory of Dakota:*

1. That there shall be appointed by the governor, by and with the advice and consent of the council, a compiler and assistant compiler of the laws, one of whom shall be an attorney admitted to practice in the courts of this territory, whose duty it shall be to compile, arrange, publish and distribute the general laws of this territory which may be in force on the fifteenth day of March, 1887. In such compilation there shall be, so far as practicable, an arrangement according to the general method of classification adopted in the revised code of 1877. Each chapter or subdivision of a chapter shall be headed by a syllabus of its contents, and shall have brief and comprehensive marginal notes, which shall state, in addition to the subject matter, the date of its enactment and the original number of the chapter and section. The laws so compiled shall be comprehensively and accurately indexed, and prefaced with a general table of contents, and such directions as shall serve to facilitate reference. In an appendix to the volume of general laws, as compiled, shall be printed the congressional act for organization of the territory and any subsequent acts of congress amendatory thereto. Such appendix shall also contain a list of the titles of all general and special laws passed since 1877, arranged by years, with the general and special laws classified separately, with notes showing which acts or parts of acts have been repealed and when, and which have become obsolete and why. The said compilers shall report to the next session of the legislature any contradictions, inconsistencies or omissions found in existing laws, for the information and action of that body. The current expenses of said compilers, for copying, stationery, postage and other incidental matters pertaining to the compilation, publication and distribution of said laws, shall be paid out of the territorial treasury on verified accounts, approved by the governor, and the territorial auditor is hereby directed to draw his warrants for the amounts of such verified accounts approved as aforesaid.

2. When such compilers shall have completed said compilation as above required, they shall cause the same to be published in one octavo volume, bound in law sheep or in heavy paper covers. Said compilers are authorized to make a contract, subject to approval by the governor, for the printing and binding of said volume, and to supervise the execution thereof. Such contract shall be made with the lowest and best bidder for such work, after advertisement for proposals in at least three newspapers printed in this territory, for one month prior to the letting of such contract, which advertisement shall designate the quality of paper and binding and style of type to be used in the work. Said compilers shall have the right to reject any and all proposals for the execution of the work, and to readvertise and secure further bids. The compilers shall certify to the governor the amounts which may become due under such contract for said work, and, upon the governor's approval thereof, the auditor shall issue his warrants upon the treasurer for payment of the sums so certified; provided, that no amount to exceed four thousand dollars shall be paid out of the territorial treasury for the compilation herein authorized, including salaries and expenses of compilers.

3. There shall be printed of such volumes such number as shall in the judgment of said compilers, be sufficient to supply the following: One hundred copies shall be by them placed at the disposal of the secretary of the territory, to be by him distributed to the library of congress at Washington, to the president of the United States, to the heads of departments at Washington, to the president of the senate and speaker of the house of representatives of the United States, and the state and territorial libraries. One copy shall be given to each of the territorial officers and boards, to each of the justices of the supreme court of the territory, to each district attorney, to each clerk of the district court, and to the United States attorney and the United States marshal for the district of Dakota. There shall be forwarded by the compilers to the clerk or auditor of each county a sufficient number of volumes for distribution as follows: One copy to the judge of probate court, to each county, township, city, town or village justice, to the sheriff, register of deeds, auditor, treasurer, coroner, county superintendent of schools, chairman of the board of county commissioners, and to the clerk of the board of supervisors of each civil township in the county for use and reference of township officers not otherwise herein specified. There shall also be forwarded one copy each as follows: To

the principal officer in charge of each public institution in the territory; and to each library association organized and maintained for the benefit of the public in any county or town in the territory. The volumes distributed to the several territorial, county, township or other officers in the territory shall be the property of the offices respectively, and shall be safely kept and turned over to successors in office. The compilers shall also provide copies for sale to parties who may desire to purchase the same, at an advance of ten per centum upon the cost price thereof, and all sums received for such sales shall be by them turned into the territorial treasury to the credit of the general funds of the territory. They shall keep an accurate record of each and every volume distributed or disposed of as provided herein, and file the same with the territorial auditor. The compilers shall procure the copyright for the volume herein provided, for the exclusive benefit of the territory.

4. When the laws shall have been printed and are ready for distribution, which shall be within eight months from the passage and approval of this act, the governor shall issue his proclamation announcing such fact and his acceptance of such compilation; and thirty days after the date of such proclamation, said compilation shall go into effect, and thereafter the laws so compiled shall be received by all the courts and officers of this territory, and shall in all respects be as valid and binding as original enrolled acts approved and filed in the office of the secretary of the territory, as now provided by law.

5. Each of the persons appointed to the office of compiler and assistant compiler, respectively, as provided in this act, shall, before entering upon the discharge of his duties, execute to the territory of Dakota a bond in the penal sum of five thousand dollars, to be conditioned on the proper performance of the duties herein prescribed, approved and filed according to law. For their services as herein prescribed they shall each be paid two hundred dollars per month for the time actually and necessarily employed in such work, and the territorial auditor is hereby directed to draw warrants upon the territorial treasurer for such amounts as may be due said compiler or assistant compiler at the end of each month, as shown by duly verified vouchers filed by said officers respectively.

6. All acts or parts of acts, in so far as they are inconsistent with this act, are hereby repealed.

7. This act shall take effect and be in force from and after its passage and approval. Approved, March 11, 1887.

# INTRODUCTORY.

The seventeenth session of the legislative assembly of Dakota enacted a law providing for the appointment of two persons to compile the general statutes of the territory. Under that law the undersigned were designated for the work. The laws are contained in the revised codes of 1877, and the session laws of 1879, 1881, 1883, 1885 and 1887. The detailed directions regarding the compilation are found in the statute printed on pages iii and iv. In executing the work, the compilers have not assumed anything like judicial functions, but have prepared the laws as they have been declared by legislative action. Where direct repeal of existing law has been made by subsequent statute, of course the text has been made to conform therewith; and where it was clearly evident that the intention of the legislature was to substitute one provision for another, but without expressly repealing the previous law, the compilers have made the change which was intended, according to a decision of the supreme court of the territory to the effect that the enactment of a new statute in regard to any matter supplanted the old, even without an express repealing clause; but whenever there has been room for doubt or uncertainty as to the intention of the law-makers, no change has been made, but all law pertaining to the subject has been compiled, leaving to the courts any question as to what provisions should prevail.

In many of the statutes as originally printed there have been found glaring grammatical and typographical errors, as shown by original bills or otherwise, which have been corrected, so that the text as herein presented shows the laws as they were evidently intended to be.

In some of the statutes, particularly those establishing the government of public institutions, special and temporary provisions had been enacted, incident to their inauguration. As it was the purpose of the compilation to include only general and permanent laws, these special provisions have been stricken out when it could be done without endangering the application of the law. In connection with every section is shown the authority for its existence as printed, by reference to the original section as enacted or amended, so that the authority for the text as given can be readily traced.

The plan adopted in numbering the sections of the compilation consecutively from first to last is that which is used in the revised statutes of the United States and in many of the states. Its convenience in referring to any provision of the law will be evident.

The congressional enactments pertaining to the territory of Dakota and its government are more fully given herewith than in any volume heretofore published. In addition to this, their provisions have been classified and arranged so that those pertaining to any particular subject will be found grouped together; and at the head of each subdivision is given a syllabus of its contents, thus making it much easier than has ever heretofore been the case, to refer to any particular provision of the organic law. The constitution of the United States is likewise printed with a syllabus at the head of each article.

In the appendix is given the title of all general and special laws passed since the adoption of the revised codes in 1877, and an indication as to which have been compiled, which repealed, and which have become obsolete by expiration or execution. In connection therewith there is also given a schedule showing to what section in the compilation any section of the revised codes or of the session laws has been carried. By means of this any general provision of law can be traced from previous books to this.

The table of contents, printed in the fore part of the book, gives a complete analysis of the provisions of the seven codes as they exist now, by which their logical arrange-

ment can be easily seen, and the location of any chapter, article or subdivision readily discovered.

The compilers have exercised great care in preparation of the index, and have undertaken to supply a means by which any public officer can readily find the laws pertaining to the duties of his position, or by which attorneys or others can promptly discover any point to which they may desire to refer.

During the preparation of the compilation, numerous contradictions, inconsistencies and omissions have been discovered, which will be duly reported to the legislature for correction.

The time for completing the entire work was limited by law to eight months, which compelled undue hurry in regard to many things that could have been better done had more time been granted; but the compilers present the result of their labors with a feeling that they have produced something which will be of great convenience to every person whose duty or interest requires examination of the statutes of the territory.

E. W. CALDWELL,  
CHARLES H. PRICE,  
Compilers of the Laws.

**BISMARCK, DAKOTA, Nov. 11, 1887.**

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